

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DANIEL C. MILLER AND KIDS, INC.

Plaintiff,

VS.

PHILIP A. DEFINA, PH.D.

Defendant.

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Case No. 4:13cv735

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

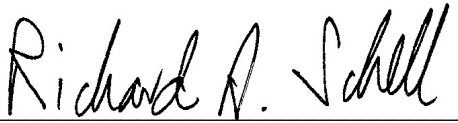
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On November 7, 2014, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Plaintiffs/Counter-Defendants' Joint Motion for Partial Summary Judgment (Dkt. 23) be DENIED and that all counterclaims asserted in Defendants' Fifth Amended Answer and Fifth Amended Counter-Claim, Docket Entry 15, proceed to trial.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Plaintiffs/Counter-Defendants' Joint Motion for Partial Summary Judgment (Dkt. 23) is DENIED and all counterclaims asserted in Defendants' Fifth Amended Answer and Fifth

Amended Counter-Claim, Docket Entry 15, shall proceed to trial.

IT IS SO ORDERED.

SIGNED this the 25th day of November, 2014.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE